

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:21-00087

MARK BOLLING

MEMORANDUM OPINION AND ORDER

Pending before the court is the motion of defendant for a continuance of trial and all related deadlines. (ECF No. 24.) In support of defendant's motion, counsel for the defendant explains that additional time is needed to review voluminous discovery and that defendant is in state custody awaiting a parole determination, expected next month.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." Id. § 3161(h)(7)(B)(iv).

Accordingly, the court hereby **ORDERS** as follows:

1. The deadline for the filing of pretrial motions is continued to **November 1, 2021**;
2. The Pretrial Motions Hearing is continued to **November 8, 2021**, at 11:00 a.m. in Charleston;
3. Jury Instructions and Proposed Voir Dire are due by **November 30, 2021**;
4. Trial of this action is continued to **December 7, 2021**, at 9:30 a.m. in Charleston; and
5. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.¹

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

¹ The court also notes that under General Order #11, "the time period between May 3, 2021 and August 31, 2021 will be excluded under the Speedy Trial Act, as the Court specifically finds for the reasons outlined herein that the ends of justice served by excluding this time period outweigh the best interests of the public and each defendant in a speedy trial, pursuant to 18 U.S.C. § 3161(h)(7)(A)." In Re: Court Operations Under the Exigent Circumstances Created by the COVID-19 Pandemic, No. 2:20-mc-00052 (ECF No. 16, at 7) (S.D.W. Va. March 15, 2021) (Johnston, C.J.).

IT IS SO ORDERED this 9th day of August, 2021.

ENTER:

David A. Faber

David A. Faber

Senior United States District Judge